

90-928<sup>①</sup>

No. \_\_\_\_\_

Supreme Court, U.S.  
**FILED**

DEC 10 1990

JOSEPH F. SPANGL, JR.  
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1990

*Marvin Steil*

Marvin Steil, Petitioner,

v.

Joseph Lieberman,  
Laura Cahill, Respondents.

Petition For Writ of Certiorari to the  
United States Court of Appeals  
For the Second Circuit

PETITION FOR WRIT OF CERTIORARI

Marvin Steil  
Petitioner, Pro Se  
P.O. Box 1862  
Middletown, CT 06457



QUESTIONS PRESENTED FOR REVIEW

1. Do the principles of Minnesota Board v. Knight, 466 U.S. 271 (1984) extend to and provide protection for liability of congressional staff employees?

2. Should the court reconsider the principles of Minnesota Board v. Knight, 466 U.S. 271 (1984) as they apply to members of Congress and congressional staff employees?

3. Do congressional staff members enjoy a "privilege" as public employees to commit common law torts without legal liability for their actions?

4. May congressional staff members individually deprive citizens of their right to "meaningful and effective" access to their elected representatives?

5. Should the Court of Appeals have remanded this action to the district court for clarification and explanation by the

## QUESTIONS PRESENTED FOR REVIEW

1. Do the principles of Minnesota Board v. United States, 455 U.S. 21 (1982) extend to and provide protection for liberty of congressional staff employment?
2. Should the Court reconsider the principles of Minnesota Board v. United States, 455 U.S. 21 (1982) as they apply to members of Congress and congressional staff employees?
3. Do congressional staff members enjoy a "privilege" as public employees to demand common law tort without legal liability for their actions?
4. May congressional staff members individually assert a violation of their right to meaningful and effective access to their elected representatives?
5. Should the Court of Appeals have remanded this matter to the district court for clarification of the question by the

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and the Public Interest

OFFICE OF THE ATTORNEY GENERAL

MEMORANDUM

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No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1990

Marvin Steil, Petitioner,

v.

Joseph Lieberman,  
Laura Cahill, Respondents.

Petition For Writ of Certiorari to the  
United States Court of Appeals  
For the Second Circuit

To the Honorable, The Chief Justice and  
Associate Justices of the Supreme Court  
of the United States:

Marvin Steil, the petitioner herein,  
respectfully prays that a writ of certiorari  
issue to review the order of the United  
States Court of Appeals for the Second  
Circuit entered in this case on September  
12, 1990.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1930

Myrta Starr, Petitioner,

vs.  
James L. Stewart,  
Respondent.

Petition for writ of Habeas Corpus to the  
United States Court of Appeals  
for the Second Circuit

to the Honorable, The Chief Justice and  
Associate Justices of the Supreme Court  
of the United States:

Myrta Starr, the petitioner herein,  
respectfully states that a writ of Habeas Corpus  
was granted by the United States Court of Appeals  
for the Second Circuit on the 12th day of  
October, 1930, in this case.

12, 1930

### OPINIONS BELOW

The decision of the Court of Appeals, dated September 12, 1990 is reproduced in the Appendix attached to this petition at pp. A1 - A6. The decision is an unpublished order. The District Court did not enter an opinion and merely wrote in handwriting "granted as to motion to dismiss" in the margin of one of the defendants' pleadings.

### JURISDICTION

The order of the Court of Appeals was entered in September 12, 1990.

The jurisdiction of this court is invoked pursuant to 28 U.S.C. §1254.

### CONSTITUTIONAL PROVISIONS INVOLVED

This action arises under the First Amendment to the Constitution of the United

## REMARKS BELOW

The decision of the Court of Appeals, dated September 12, 1950, is reproduced in the appendix attached to this report at pp. 47 - 48. The decision is an unpublished order. The District Court did not enter an opinion and merely wrote its findings of fact and conclusions of law in its decision. In the "Remarks" as to each of the defendant's findings, written by one of the defendant's attorneys.

## EXHIBITION

The order of the Court of Appeals was entered in September 12, 1950.

The jurisdiction of this court is

limited pursuant to 28 U.S.C. 1332.

## CONSTITUTIONAL PROVISIONS INVOLVED

This action arises under the Fifth Amendment to the Constitution of the United States.



States which provides in relevant part that "Congress shall make no law...prohibiting...[the right to] petition the Government for a redress of grievances."

#### STATEMENT OF THE CASE

The jurisdiction of the United States District Court for the District of Connecticut was originally invoked pursuant to 28 U.S.C. §1331 ("federal question jurisdiction") based on the First Amendment issues articulated by petitioner.

Petitioner Marvin Steil ("Steil") sought to petition his United States Senator Joseph Lieberman, by contacting his Hartford, Connecticut office. On April 17, 1989 he phoned the office and was told by Respondent Laura Cahill ("Cahill") that she was worried about her "safety" and the

States which provide to relevant party that

"Congress shall have no

power to deprive any person of property without just compensation.

The Government for a review of evidence.

# STATEMENT OF THE CASE

The jurisdiction of the United States

Supreme Court for the district of

Connecticut was originally invoked pursuant

to 28 U.S.C. § 1331 ("Federal question

jurisdiction") based on the First Amendment

issues articulated by petitioners.

Petitioners, Marvin (et al.) ("Petitioners")

sought to petition the United States Supreme Court

to grant a writ of habeas corpus by certifying the

petitioners' constitutional rights. On April 17,

1963 he opened the office and has since the

respondent's letter dated 11/1/63 that the

was written about the "Letter" and the

safety of "caseworkers" and that Steil should cease to call Senator Lieberman's office. When Steil later phoned the office, another employee who answered the phone hung up on Steil.

Steil brought an action in the district court alleging four claims: (1) denial of his First Amendment right to petition his elected representatives and denial of Equal Protection to Steil as a Connecticut constituent; (2) negligent or intentional infliction of emotional distress; (3) misrepresentation; (4) defamation per se.

After holding a hearing, the district court entered a handwritten order dismissing the action, and thereafter the Clerk of the District Court entered a boilerplate

...of "caseworkers" and that staff  
should be able to call Senator Lieberman's  
office. When staff later phoned the office,  
another employee who answered the phone hung  
up on staff.

Staff brought an action in the district  
court alleging four claims: (1) denial of  
the first Amendment right to petition his  
elected representatives and denial of staff  
protection to staff as a confidential  
informant; (2) negligent or intentional  
infliction of emotional distress; (3)  
retaliation; (4) violation of 42 U.S.C.

After holding a hearing, the district  
court entered a summary judgment granting  
the motion and dismissing the claim of the  
district court entered a summary

judgment dismissing the action. The Court of Appeals affirmed, finding the case frivolous and holding that Steil had failed to state any claim on which relief could be granted.

The Court of Appeals dismissed Steil's First Amendment arguments based on Minnesota Board v. Knight, 466 U.S. 271 (1984). The court also held that Steil had failed to state a common law cause of action but that if he had, "Cahill's alleged statements were privileged because they arose out of the discharge of her official duties as a member of Lieberman's staff."

Steil brings this petition to review and reverse the decision of the Court of Appeals.

judgment dismissing the action. The Court of Appeals affirmed, finding the case frivolous and holding that Starr had failed to state any claim in which relief could be granted. The Court of Appeals dismissed Starr's first Amendment argument based on *Hinsdale v. Board of Education*, 440 U.S. 945 (1979). The court also held that Starr had failed to state a cognizable cause of action but that in the past, "Civilians' alleged statements were privileged because they arose out of the discharge of her official duties as a member of the board of education." Starr sought this decision to review and reverse the decision of the Court of Appeals.

## REASONS FOR ALLOWANCE OF THE WRIT

### General Reasons

This court should grant the petition because the Second Circuit has entered a decision which conflicts with a decision of the United States Court of Appeals in Chastain v. Sundquist, 833 F.2d 311 (D.C. Cir. 1987). The decision in this case also conflicts with and is inconsistent with this court's decisions in Hutchinson v. Prioxmire, 443 U.S. 111 (1979), Gravel v. U.S., 404 U.S. 606 (1972) and Doe v. McMillan, 412 U.S. 306 (1973).

# REASONS FOR ALLOWANCE OF THE WRIT

## Legal Reasons

This court should grant the petition because the Second Circuit has entered a decision which conflicts with a decision of the United States Court of Appeals in Quinn v. Anderson, 323 F.2d 811 (10th Cir. 1963). The decision in this case also conflicts with and is inconsistent with this court's decision in Henderson v. Harrison, 444 U.S. 1179 (1979). Quinn v. Anderson, 323 F.2d 811 (10th Cir. 1963) and Henderson v. Harrison, 444 U.S. 1179 (1979).



## SPECIFIC REASONS

### I.

THE PRINCIPLES OF MINNESOTA BOARD V. KNIGHT  
DO NOT EXTEND TO CREATE IMMUNITY FOR  
UNLAWFUL ACTIONS BY CONGRESSIONAL STAFF  
EMPLOYEES

The Court of Appeals misread Minnesota Board as an immunity decision and improperly conflated the general principles of Minnesota with the immunity decisions of this court. In the current action, a congressional staff member acted in an irrational and abusive manner. Without any basis in fact, or rational basis for her "fears," she sought to deprive a constituent of access to his elected representative. The record is devoid of any substance for the

# REPORT

1900

THE BOARD OF DIRECTORS OF THE  
AMERICAN ASSOCIATION OF  
SCIENTISTS

REPORT  
ON THE  
PROGRESS OF THE ASSOCIATION

IN THE  
YEAR 1900  
AND  
THE  
RESULTS OF THE  
ANNUAL MEETING

HELD AT  
THE  
HOTEL  
MADISON

IN  
NEW YORK  
CITY

ON  
SEPTEMBER  
10-12

irrational "fears" of respondent Cahill that she or anyone else was in any form of danger. The Court of Appeals misapplied Minnesota to create a virtual immunity for unlawful and irrational acts of congressional staff employees, and to immunize such abusive conduct under the rubric of Minnesota which stated that an election challenge is the primary method of ventilating disputes with an elected official. Minnesota does contain expansive language, but it was obviously not intended to immunize irrational and abusive conduct by a congressional staff employee. The decision of the Court of Appeals is in stark conflict with the analogous situation decided in Chastain v. Sundquist, 833 F.2d



311 (D.C. Cir. 1987) in which the Court of Appeals for the District of Columbia Circuit allowed claims to proceed against a Member of Congress and correctly applied this court's prior reasoning in Proxmire, Gravel, and Doe. The present action names an elected official as a necessary party, to comply with Federal Rules of Civil Procedure on joinder. But it is obvious from the record and clear from the pleadings that the elected representative is primarily a nominal party, and that Steil's principal conflict is with a staff member of Senator Lieberman's, respondent Cahill. Minnesota was never intended to protect staff employees for their own abusive conduct, especially where the record is equally devoid of any ratification by Senator



Lieberman of Cahill's actions and the record is silent on whether Lieberman even knows how Steil has been victimized.

## II.

THE COURT SHOULD RECONSIDER THE EXPANSIVE LANGUAGE OF MINNESOTA BOARD IN LIGHT OF THE POLITICAL REALITIES OF MODERN DAY ELECTORAL POLITICS

Even if this court were to adhere to the expansive language contained in Minnesota, the court should reconsider whether such language comports with the reality of modern-day electoral politics.

The court suggested in Minnesota that the primary means of raising differences with an elected representative is to campaign against him. This is simply not a

Liberation of Capital's position and the  
record is silent on whether a liberation even  
known how best has been realized.

11.

THE COURT SHOULD RECONSIDER THE EXPANSIVE  
LANGUAGE OF MINNEAPOLIS BRAND IN LIGHT OF THE  
POLITICAL REALITIES OF MODERN DAY ELECTORAL  
POLITICS

Even if this court were to adhere to  
the expansive language contained in  
Minneapolis, the court would be contradicting  
whether such language comports with the  
realities of modern-day electoral politics.  
The court suggested in Minneapolis that  
the extreme means of raising differences  
with an election representative is to  
conduct a campaign to this is simply not a



realistic option in our system of congressional government.

Steil is a quintessential common man, a retired federal employee with no significant assets, no political power, no media access and no means of mounting a challenge to a public official. Where rights conflict between officials and citizens, the courts are created as a means of vindicating disputes short of resort to electoral campaigns, and have always been considered the primary means of resolving disputes which do not a desire by a citizen to run for office but merely to seek justice and fairness from a public official.

Realistic action in our system of

conservation of resources.

It is a fundamental common sense

and tested policy, and with no

significant results, no real power, no

real success and no means of mounting a

challenge to a public official. Where rights

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courts are created as a means of vindicating

disputes and of resort to judicial

remedies, and have always been considered

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which do not require the aid of the

law officer but require the aid of the

law officer.

Incumbent legislators have massive, publicly-funded powers of incumbency. The common citizen does not enjoy "equal protection of the laws" on a level playing field with powerful campaign contributors, PAC donors and vested interests. In a recent U.S. Senate Ethics Committee hearing on the so-called " Keating Five," Senator Alan Cranston candidly admitted as much and said it was simply unrealistic to believe that campaign contributors were on an even plane with the common citizen. If this court were to reduce the "right to petition" to a right to campaign for office or support those who do, and strip the right of any meaningful access to the judicial system as an intermediate, accessible and attainable

Independent legislators have negative  
publicly-funded sources of income. The  
common citizen does not enjoy equal  
protection of the law, on a level playing  
field with powerful campaign contributors.  
PAC donors and vested interests, in a recent  
U.S. Senate Select Committee hearing on the  
so-called "revolving door" between Alan  
Gravel's senatorial office and his  
itself were in attendance to believe that  
campaign contributions were on an even plane  
with one another. If this court were  
to remove the right to restrict, is a right  
to campaign for office or support when one  
do, and state the right of any meaningful  
action in the judicial system as an  
independent, uncorrupted and unbiased

means of vindicating disputed claims, then the Right To Petition would be rendered essentially meaningless.

Steil, moreover, has no interest in replacing Senator Lieberman, or supporting a challenge to the Senator. He is merely trying to get around an abusive and irrational staff member who hallucinates that she is in "danger" of imaginary threats posed by Steil, when Steil poses no threat to anyone and merely seeks to communicate with his elected representative in a

means of violating disclosed claims, then  
the right to practice would be rendered  
essentially meaningless.

Chief, however, has an interest in  
protecting Director's interests, or otherwise  
a challenge to the Board. He is merely  
trying to get around an adverse and  
irreversible staff member and his business  
that she is in danger of losing their  
posed by staff, who will lose no time  
to anyone and never, again to ourselves  
of the elected representatives in a

reasonable manner.<sup>1</sup> Given the totality of the facts, and the fact that the expansive language of Minnesota lends itself to misapplication, Steil asks this court to revisit the issue of the Right to Petition, and to hold that Minnesota was never intended to deny constituents Equal

---

<sup>1</sup> It should be emphasized that this is not a case where Steil seeks access or is suing for personal access to the Senator. Steil has never asked to see the Senator personally. He is merely seeking access to the legislative services provided by the Senator's office and made available on a general basis to constituents in Connecticut. Thus, this case does not represent a case where someone, such as the petitioner in Minnesota, is insisting on "direct access" to a public official. It is clear from the decision of the Court of Appeals, moreover, that Cahill sought to ban Steil from contacts with the office, since Steil was only seeking access to congressional services and did not ask to see his elected representative in person.

reasonable manner. Given the scarcity of  
the data, and the fact that the descriptive  
language of Minnesota tends to be  
misapplied. Still, the data would  
reflect the issue of the right to privacy,  
and to hold that Minnesota was free.

It should be emphasized that this is  
not a case where the state would be  
required to provide a remedy to the plaintiff.  
The state has no duty to provide a remedy to  
the plaintiff. The state has no duty to  
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Protection of the Laws and never meant to bar judicial review of disputes between a congressional employee and a constituent. It is simply unrealistic to expect that every time a constituent disagrees with an abusive staff member, the constituent's only remedy is to mount or support an electoral challenge to a public official.

### III.

#### CONGRESSIONAL STAFF MEMBERS DO NOT ENJOY IMMUNITY FOR THEIR COMMON LAW TORTS

The Court of Appeals afforded Cahill virtual immunity for her common law torts, finding that Cahill's "alleged statements were privileged because they arose out of the discharge of her official duties as a member of Lieberman's staff." (App. p. A 5) The Court of Appeals' decision is in stark conflict with Chastain, supra and this

Protection of the Law and they need to  
be judicial review of disputes between  
Congressional agencies and a consistent  
it is simply unrealistic to expect that a  
every time a constitutional dispute with an  
relative that power, the consistent a only  
remains is to want or support an electoral  
challenge as a public official?

### III

CONGRESSIONAL STAFF MEMBERS OR NOT EMER-  
GENCY FOR THEIR OWNERS IN THIS  
The Court of Appeals (1971)  
Article, Kentucky, 1971, has shown the  
finding that the Court's alleged statements  
and a related balance that were not  
the language of the Constitution as a  
member of Congress in 1971. (1971) 1  
The Court of Appeals (1971) is 1971  
conflict with the Constitution and the

court's decisions in Hutchinson, Gravel and Doe, supra.

In Count Two, Steil alleged that he had suffered emotional distress because of Cahill's abusive conduct and statements. The Court of Appeals dismissed Steils' claims, finding that Cahill's conduct "was not extreme and outrageous conduct either intended or reasonably likely to cause emotional distress." (Appendix p. A 4). Questions of reasonableness are, of course, grist for a jury's determination, not a judge's. But is it so unreasonable that a common citizen who is told out of the blue he is "dangerous" and is "banned" from phone contact with his elected representative's office by an abusive employee would suffer distress, embarrassment, humiliation and injury of the type redressable by a jury?

court's decision in Harrison v. State, 192

Cal. 2d 807.

In County of Santa Clara v. State, 192 Cal. 2d 807, 251 P.2d 807, the court held that the state's burden of proof in a criminal case is on the state, and that the state must prove its case by a preponderance of the evidence.

The court in County of Santa Clara v. State, 192 Cal. 2d 807, 251 P.2d 807, held that the state's burden of proof in a criminal case is on the state, and that the state must prove its case by a preponderance of the evidence. The court also held that the state's burden of proof in a criminal case is on the state, and that the state must prove its case by a preponderance of the evidence.

Questions of fact and law are, of course, left for the jury to determine, and the jury is the trier of fact. The court in County of Santa Clara v. State, 192 Cal. 2d 807, 251 P.2d 807, held that the state's burden of proof in a criminal case is on the state, and that the state must prove its case by a preponderance of the evidence. The court also held that the state's burden of proof in a criminal case is on the state, and that the state must prove its case by a preponderance of the evidence.

Steil submits that he stated a claim which was sufficient to go to a jury, given the admitted outrageous statements of Cahill.

Similarly, the Court of Appeals immunized statements concerning Steil's "dangerousness" which were facially defamatory. More interestingly, while Cahill supplied an affidavit in the district court, no other staff member supplied any statement supporting Cahill or adding weight to her hallucinatory accusations. Yet the Court of Appeals immunized Cahill's abusive statements from any liability in court, remanding Steil to an election campaign as his sole redress for being abused by an irrational and power-drunk staff employee. Given the clear conflict between the Hutchinson, Gravel and Doe decisions of this court and the Chastain decision of the



District of Columbia Circuit, it is appropriate for this court to reconsider the scope of congressional staff immunity for outrageous and abusive conduct in the context of judicial remedies.

#### IV.

#### STAFF MEMBERS MAY NOT DENY CONSTITUENTS ACCESS TO THEIR ELECTED REPRESENTATIVES

Closely associated with the previous point is the fact that the record is devoid of any indication Senator Lieberman ever knew what Cahill was doing or ever approved of her conduct. He offered no affidavit in the district court, and the only statement that was submitted came from Cahill herself. One of the evils of our government today is that staff members of Senators and House Members have become a power unto themselves

Director of Columbia District, it is  
accountable for this court to reconsider the  
scope of Congress and staff testimony for  
outstanding and sensitive conduct in the  
context of judicial review.

#### IV

STATE MEMBERS MAY NOT HAVE CONSTITUTIONAL  
ACCESS TO THESE SELECTED REPRESENTATIVES  
Closely associated with the previous  
point is the fact that the record is devoid  
of any indication of a judicial review  
and that it was found to have been approved  
of the court. He offered no evidence in  
the trial, and the only evidence  
that was submitted was from the trial.  
One of the goals of our government is  
that it should be a "free and open"  
society and we have a power into the future



and, if the Court of Appeals decision is allowed to stand, a law unto themselves as well, who enjoy coequal immunity with Members of Congress for the employees' outrageous and abusive actions having no connection with official duties. It is simply beyond the pale to argue that asserting hallucinatory claims and making unfounded accusations against a constituent, which find no support in the record, are part of the official duties of a congressional staff employee. Hutchinson, Gravel and Doe, and Chastain, are to the explicit contrary.

V.

THE COURT OF APPEALS SHOULD HAVE REMANDED THIS CASE FOR EXPLANATION AND EXPLICATION BY THE DISTRICT COURT

One of the problems confronting Steil

and in the Court of Appeals decision is  
allowed to stand, a few hard cases may  
well who enjoy equal immunity with  
members of Congress for the purposes  
of Congress and executive actions having no  
connection with official duties. It is  
likely beyond the time to argue that  
asserting retaliatory claims and having  
national associations against a defendant  
which find no support in the record, are  
not of the official duties of a  
Congressman, staff members, subcommittee  
staff and staff and Congress are to the  
highest extent.

THE COURT OF APPEALS SHOULD HAVE  
THE CASE FOR EXAMINATION AND EVALUATION IS  
HE HAD TO GO  
THE OF THE COURT CONTAINING STAFF

as he appealed the district court decision is that there was no district court decision. While the Court of Appeals wrote a brief decision, that decision could not have been in review of the district court's action, because the district court dismissed the case but never made any findings of fact or explained its conclusions of law. The district judge simply wrote several words along the margin of a defendant's pleading, and the Clerk simply entered a boilerplate judgement referring to the "full record of the case" and "applicable principles of law." What record? What principles? The record is devoid of any reasoned statement by the district judge. Given that the Court of Appeals grappled with what constitutes "reasonable" conduct (Count Two), which is

as he requested the District Court decision  
in that case and the District Court  
decision. While the Court of Appeals was  
a brief decision, that decision could not  
have been in review of the District Court's  
decision. Because the District Court decision  
was not made and finding of fact  
is required in decisions of law, the  
District Court would have several weeks  
along the length of a defendant's standing.  
But the District Court would a defendant's  
disposition relating to the "full" record of  
the case, and "disposition" is a matter of  
law. That record was given to the  
court in review of the defendant's standing  
in the District Court. The court was not  
to review a defendant's standing with the District  
Court. The court would have to review the

a traditional jury issue, it is clear that the Court of Appeals reviewed its own views of what the district court had done, not a decision by the district court explaining why Steil was to be denied his day in court before a jury of his peers who would assess the reasonableness of Cahill's conduct and put to rest, once and for all, her hallucinatory and unfounded claims. This court can equally ask the Court of Appeals to send this matter back to the district court for an explanation of the reasons for the district judge's actions, and the basis for his decision to deprive plaintiff/Steil of a jury determination of the disputed facts in this controversy.



CONCLUSION

Petitioner asks that this court grant the writ sought, and reverse the Court of Appeals and enter a decision consistent with the teachings of Hutchinson, Gravel and Doe as applied in Chastain.

Respectfully submitted,

*Marvin Steil*

MARVIN STEIL  
P.O. Box 1862  
Middletown, CT 06457

RECEIVED

Received from the Court of  
the will of the Court of  
appeals and enter a ~~decision~~ <sup>judgment</sup> with  
the findings of fact, law, and the  
as stated in the case.

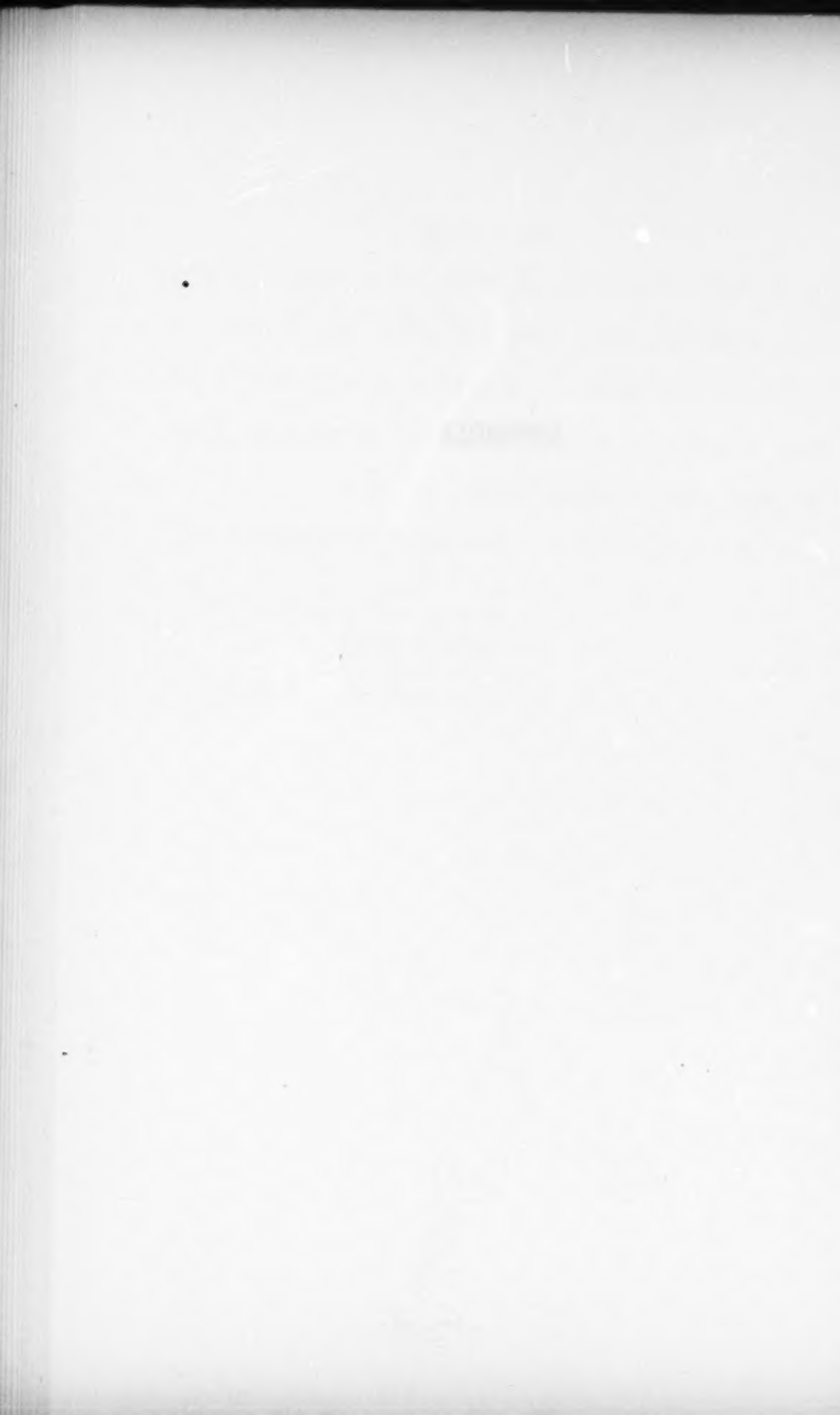
Respectfully submitted,

*James M. Smith*

James M. Smith  
A. J. Box 1902  
Washington, D. C. 20001







United States Court of Appeals  
For the Second Circuit

Present:

Hon. J. Edward Lumbard,  
Hon. Ralph K. Winter,  
Hon. Roger J. Miner,  
Circuit Judges

Marvin Steil,  
Plaintiff-Appellant,

v.

Joseph Lieberman,  
Laura Cahill,  
Defendants-Appellees.

ORDER

# 90-6137

Filed: September 12, 1990

Marvin Steil appeals from Judge Nevas' summary dismissal of Steil's pro se complaint. Because Steil's complaint is frivolous, we affirm.

Steil's complaint alleged that on April 17, 1989, he telephoned United States Senator Joseph Lieberman's Hartford, Connecticut office and spoke

United States Court of Appeals  
For the Second Circuit

Present:

Hon. J. Edward Lumbard,  
Hon. Ralph E. Winter,  
Hon. Roger J. Winter,  
Circuit Judges

Myron Steel,  
Plaintiff-Appellant.

vs.  
Joseph Lieberman,  
Court Clerk,  
Defendant-Appellee.

Case  
No. 80-812

Filed September 11, 1980

Myron Steel appeals from Judge  
Lieberman's summary judgment of Steel's claim for  
damages. Because Steel's complaint is  
frivolous, we affirm.

Steel's complaint alleged that on  
April 17, 1980, he telephoned United  
States Senator Joseph Lieberman's  
Washington, D.C. office and asked

with Laura Cahill, the director of constituent services. Cahill allegedly told Steil that she was "worried about the safety of caseworkers" and that Steil was "not to call this office again." Cahill then hung up on Steil. Steil also alleged that he later wrote to Lieberman about the incident and that Lieberman did not respond. On May 30, 1989, Steil again called Lieberman's Office. The staff worker who answered the phone told Steil not to call again and hung up on him.

As a result of these incidents, Steil filed suit against Liebermann and Chill. Each of the four counts in Steil's complaint failed to state a claim upon which relief can be granted. First, Steil claimed that Liebermann and Cahill

with Louis Cappel, the proprietor of  
consignment services. Cappel allegedly  
told Scott that he was "worried about the  
safety of his workmen" and that Scott was  
not to tell him either again. Cappel  
then hung up on Scott. Scott also alleged  
that he later spoke to Lieberman about the  
incident and that Lieberman did not  
respond. On May 30, 1993, Scott again  
called Lieberman's office. The staff  
operator who answered the phone told Scott  
not to call again and hung up on him.  
As a result of these incidents, Scott  
filed suits against Lieberman and Cappel.  
Each of the four counts in Scott's  
complaint failed to state a claim upon  
which relief can be granted. First, Scott  
alleged that Lieberman and Cappel

deprived him of his constitutional right to petition his elected representatives. However, the public does not have an unrestricted right of access to government officials. Minnesota Bd. v. Knight, 465 U.S.271, 283-285 (1984). The constitutional right to petition government does not oblige individual public officials to listen to a particular grievance. In point of fact, "disapproval of public officials' responsiveness...is to be registered at the polls." Id. at 285. Accordingly, Steil has not been deprived of any constitutional right.

Similarly, Steil's state tort law counts failed to state a cause of action under Connecticut law. In the second count of his complaint, Steil alleged the intentional or negligent infliction of





emotional distress. However, the conduct alleged in the complaint was not extreme and outrageous conduct either intended or reasonably likely to cause emotional distress. See e.g. Maori v. Bridgeport Hospital, 40 Conn. Supp. 56, 480 A.2d 610, 614 (1984). Accordingly, this court was properly dismissed.

Steil also failed to allege facts sufficient to support a claim of fraudulent representation by Liebermann's employees. He did not allege that the employees knew that their statements were false, that they made the statements to induce Steil to act to his detriment, or that he acted to his detriment as a result. See e.g. Miller v. Appleby, 183 Conn.51, 438 A.2d 811, 813 (1981).

emotional distress. However, the conduct  
alleged in the complaint was not extreme  
and outrageous conduct either intended or  
reasonably likely to cause emotional  
distress. See W. H. Miller v. St. Louis  
Industries, Inc., 30 Conn. Supp. 380, 400 (1971).  
Accordingly, this court was  
properly dissatisfied.

Scott also failed to allege facts  
sufficient to support a claim of  
fraudulent concealment by Johnston's  
employees. He did not allege that the  
employees knew that their statements were  
false, that they made the statements to  
induce Scott to act to his detriment, or  
that he acted to his detriment as a  
result. See W. H. Miller v. St. Louis  
Industries, Inc., 30 Conn. Supp. 380, 400 (1971).

Finally, Steil claimed that Chill defamed him. However, his claim more closely resembles an allegation of slander since defamation requires the publication of a false statement. See e.g. Strada v. Connecticut Newspapers, 193 Conn. 313 (1984). Even construed as a slander claim, Steil failed to state a cause of action. Chill's alleged statements were privileged because they arose out of the discharge of her official duties as a member of Liebermann's staff. Moreover, there is no allegation that an improper motive led Chill to make these statements. See Miles v. Perry, 11 Conn. App. 584, 595-600, 529 A.2d 199, 206-8 (1987).

Affirmed.

/S/ Hon. J. Edward Lumbard

/S/ Hon. Ralph K. Winter

Finally, after a long and  
careful study, the Board  
has decided to recommend an increase of about  
one dollar per month for the minimum  
of a five percent. The Board  
has also recommended that the  
Board should be a salary scale  
based on the basis of a salary of \$100  
and that the Board should be authorized  
to make such adjustments as may be  
necessary to bring the salary scale  
into line with the prevailing rates  
for similar positions in the  
Government. The Board has also  
recommended that the Board should  
be authorized to make such adjustments  
as may be necessary to bring the  
salary scale into line with the  
prevailing rates for similar positions  
in the Government.

Very truly,  
Yours,  
[Signature]

/S/ Hon. Roger J. Miner